Supreme Court precedent and noted that it had approved a signature requirement mandating candidates collect signatures of 5% of registered voters (Chicago's requirement amounted to 1%).

The Court also found the other requirements of the ballot rules—timeframe and single nominating petition) were acceptable under Supreme Court case law. The ninety day window was a full forty days longer than the shortest period the Supreme Court had approved -- in that case candidates had to collect 22,000 signatures--almost twice as many signatures in nearly half the time. And the rule that voters only sign one nominating petition did not concern the Court given that there were no other restrictions on voters. (The one time the Seventh Circuit had found such a restriction unreasonable was when only independent candidates were subject to the rule, each had to collect signatures from 10% of the voting population ninety days before the primary, and the signatories could not vote in the primary election).

Overall, the scheme was deemed reasonable and non-discriminatory, and a legitimate means to serve the important government interests of preventing voter confusion and reducing ballot overcrowding.

http://law.justia.com/cases/federal/appellate-courts/ca7/13-2733/13-2733-2014-04-25.html (Last accessed May 15, 2014).

Employment: No Retaliation or Common Purpose Where Seven Schools Independently Decline Job Applicant

Davis v. Unified School District 500, No. 13-3224 (10th Cir. May 5, 2014).

In the absence of evidence of conspiracy, a custodian fired for sunbathing nude at one school could not sustain claims of retaliation or common purpose when his application for a head custodian position at seven other schools was declined.

In 1991 Charles Davis began working as a custodian for Unified School District 500 in Kansas. In 2007, he was found lying naked on his stomach sunbathing on the roof of the elementary school where he worked. The school board considered terminating his employment, but instead suspended him without pay for thirty days and demoted him from head custodian. He stayed on with the school district and between 2008 and 2012 and, during that time, applied to seven different schools within the district to regain a head custodian position. He was not hired at any of the schools.

In 2012 Davis sued the district, as well as the Human Resources (HR) director, alleging both retaliated against him by refusing to promote him. The issue, which the District Court answered in the negative, was whether a common purpose to retaliate against Davis could be inferred from the sheer volume of the promotion denials. Davis appealed.

HELD: The Tenth Circuit affirmed the District Court, holding that the seven promotion denials were from independent schools and independent of each other, precluding the Court from inferring any common purpose among the actors.

DISCUSSION: Violations of Title VII or 42 U.S.C. § 1983, which have the same standard, are proven with either direct evidence or indirectly under the *McDonnell Douglas* burden-shifting framework. Davis, lacking direct evidence, pursued the later path, necessitating he prove "(1) he engaged in protected activity; (2) he suffered an adverse employment action; and (3) there [wa]s a causal connection between his protected activity and the adverse employment action." As for his retaliation claim against the HR director, Davis contended the director failed to submit his application for the head custodian position at two of the schools he applied for. Davis's evidence against the HR director consisted of the fact that he failed to receive a confirmation email indicating he had been "referred for consideration" to the two schools and that HR director failed to investigate the qualifications of the successful applicants for the two jobs. The failure to refer his name was an adverse employment action according to Davis, however, according to the HR director he did forward Davis' name to the appropriate schools and he was able to prove it for one school, though the confirmation email was never sent. The Tenth Circuit concurred with the District Judge's findings that given the lack of evidence that Davis' name was not sent to the appropriate schools (excepting a missing confirmation email) no reasonable jury could find that the director took an adverse employment action against him. And as for the director's failure to "investigate" the successful applicants, both Courts agreed that that did not fall within the definition of an adverse employment action – for even if an unqualified applicant was referred for consideration to the principals in questions, neither Circuit could see how such an incident would be adverse employment action against Davis.

Davis' retaliation claim against the school district was similarly rejected based on a lack of evidence. Davis argued that the sheer number of rejections (seven) for the promotion he applied to indicated he was retaliated against. The Tenth Circuit disagreed. It found no support for Davis' allegations of but-for causation with respect to each incident of being passed over for the promotion. Nor did it find any conspiracy among the principals that rejected Davis; each principal independently investigated and evaluated applicants, and independently made hiring decisions.

http://law.justia.com/cases/federal/appellate-courts/ca10/13-3224/13-3224-2014-05-05.html (Last accessed May 14, 2014).

Employment: Racial Differences of Boston Police Department's Hair-Based Drug Testing Support Prima Facie Case of Disparate Impact

Jones v. City of Boston, No. 12-2280 (1st Cir. May 7, 2014).

Where a hair-based test for cocaine use produced anomalous results along racial lines, such that black police officers tested positive at rates far in excess of normal standard deviations, the First Circuit has reversed a lower court decision, finding that the officers had made a prima facie case of disparate impact under Title VII.